# **Initiative Drafting Guide and Style Sheet**

This style sheet is intended to provide information on the format and style of proposed initiatives. Under article V, section 1 (5) of the state constitution, the general assembly and its committees and agencies may not "require the amendment, modification, or other alteration of the text" of a proposed initiated measure. However, there are some constitutional and statutory requirements regarding the form of a proposed measure. This style sheet describes these requirements and makes some recommendations intended to help you draft a proposal that is clear and fits into the existing constitutional or statutory framework.

#### **Constitutional requirements**

Article V, section 1 contains two requirements concerning the text of an initiative to propose a law or an amendment to the state constitution:

- The measure must contain a single subject. For additional information on the single-subject requirement, see section 1-40-106.5, C.R.S.
- The style of all laws adopted by the people through the initiative shall be, "Be it Enacted by the People of the State of Colorado". This phrase should appear at the beginning of your proposed initiative.

#### Statutory requirements

Under section 1-40-105 (1), C.R.S., the draft submitted to the directors of the legislative council and the office of legislative legal services for review and comment should be typewritten. The rules adopted by the legislative council further require that: "A petition must be typewritten and legible, contain the text of the initiated measure, and provide the names and mailing addresses of two persons representing the proponents in all matters pertaining to the initiative."

Section 1-40-105 (1), C.R.S. also encourages initiative proponents to write the drafts of their proposed measures "in plain, nontechnical language and in a clear and coherent manner using words with common and everyday meaning which are understandable to the average reader."

For more information, please see the "Guidelines for the Use of Plain Language" in chapter 5 of the Colorado Legislative Drafting Manual, which may be found at the following link: http://www.state.co.us/gov\_dir/leg\_dir/olls/LDM/05.0\_Special\_Rules\_and\_Techniques\_of\_Drafting.pdf

# Recommendations on the format and style of proposed initiatives

# 1. Sections and numbering

An initiative proposal should indicate where the text of the proposed measure will be located in the state constitution or the Colorado Revised Statutes. The text should be placed in a location that is suitable for the subject of the measure, and the measure should be divided into numbered subdivisions and given section headings as appropriate.

# a. Proposal to amend the state constitution

The state constitution is divided into articles and sections. Articles are numbered with Roman numerals [I, II, III...] and described with a title. For example:

# **ARTICLE V Legislative Department**

Sections of the constitution are numbered with Arabic numbers followed by a descriptive headnote in bold-face type. The headnote may contain multiple descriptive words or phrases separated by hyphens. Some sections contain subsections, set off by numerals in parentheses. For example:

- **Section 2. Election of members oath vacancies.** (1) A general election for members of the general assembly shall be held on the first Tuesday after the first Monday in November in each even-numbered year, at such places in each county as now are or hereafter may be provided by law.
- (2) Each member of the general assembly, before he enters upon his official duties, shall take an oath or affirmation to support the constitution of the United States and of the state of Colorado and to faithfully perform the duties of his office according to the best of his ability. This oath or affirmation shall be administered in the chamber of the house to which the member has been elected.
- (3) Any vacancy occurring in either house by death, resignation, or otherwise shall be filled in the manner prescribed by law. The person appointed to fill the vacancy shall be a member of the same political party, if any, as the person whose termination of membership in the general assembly created the vacancy.

A proposal to amend the state constitution should specify the article and section to be modified or added. When amending provisions smaller than a constitutional section, state the constitutional section and article numbers before the "amend", "add", or "repeal" instruction. When amending a constitutional section or a larger provision, state the "amend", "add", or "repeal" instruction before the provision number. This may be done with an "amending clause", for example:

In the constitution of the state of Colorado, section 2 of article V, **amend** (1) as follows:

Or:

In the constitution of the state of Colorado, add article XXX as follows:

# b. Proposal to amend the Colorado Revised Statutes

The Colorado Revised Statutes ("C.R.S.") are organized by subject into 41 titles, from Title 1 (Elections) to Title 41 (Aeronautics: Aircraft and Airports). Each title is divided into articles. Some articles are further divided into parts, and each article or part contains sections that can be further divided into subsections, paragraphs, subparagraphs, and subsubparagraphs. The purpose of this sectioning hierarchy is to organize the statutes by topic and separate individual provisions into relatively short sections that are easy for readers to locate and read.

Each section in the C.R.S. has a three-part number. The first number specifies in which of the 41 titles the section is located. The second number indicates the article within that title, and the third number is the number of the section itself. For example, the statute on the procedure for filing an initiative petition is section 1-40-105, C.R.S. This number indicates that the statute is section 105 within article 40 (Initiative and Referendum) of Title 1 (Elections).

Within a section, the text may be divided into subsections with numbers [(1), (2), (3)...], paragraphs with lower-case letters [(a), (b), (c)...], subparagraphs with Roman numerals [(I), (II), (III)...], and sub-subparagraphs with upper-case letters [(A), (B), (C)...]. A section may use all, some, or none of these internal divisions, as appropriate. For an example of a section that uses these divisions down to the subparagraph level, see section 1-40-106.5, C.R.S.

A proposal to amend the state statutes should specify the title, article, and section to be modified or added. When amending a provision smaller than a section, state the section number before the "amend", "add", or "repeal" instruction. When amending a section or larger, state the "amend", "add" or "repeal" instruction before listing the provision to be amended. This may be done with an "amending clause".

If the proposed initiative modifies an existing statute, the amending clause may be in this form:

In Colorado Revised Statutes, amend 1-40-105 as follows:

In Colorado Revised Statutes, 1-40-105, amend (1) as follows:

If the proposed initiative adds a new provision to the statutes, the amending clause may be written as in one of the following examples, depending on whether the proposal adds a new section, part, or article:

In Colorado Revised Statutes, add part 3 to article 40 of title 1 as follows:

In Colorado Revised Statutes, **add** 1-40-207.6 as follows:

In Colorado Revised Statutes, add article 5.5 to title 1 as follows:

If a new section or article fits most logically between two existing provisions, it may be given a number including a decimal. For example, a proposed section to be added between sections 1-40-104 and 1-40-105, C.R.S., could be numbered as section 1-40-104.5. Decimals may also be used to insert new subsections [e.g. (1.5)], paragraphs [e.g. (a.5)], and other subdivisions within sections.

The number of each section in the Colorado Revised Statutes is followed by a descriptive headnote in bold-face type. The headnote may contain multiple descriptive words or phrases, separated by hyphens, describing each of the main provisions in the section.

Please note that under section 2-5-113 (4), C.R.S., the placement, headings, and numbers of statutory provisions are not "part of the legislative text but ... only for the purpose of convenience, orderly arrangement, and information."

#### 2. How to show proposed changes in the law

New language to be added to the state constitution or statutes by the proposed initiative should be indicated in small capital letters. THIS IS AN EXAMPLE OF SMALL CAPITAL LETTERS. Language to be deleted from an existing constitutional or statutory provision should be shown in strike type. This is an example of strike type.

If an entire section or other subdivision is deleted by a proposed measure, a "repealer clause" may be used instead of an amending clause. The repealer clause may simply refer to the deleted provision, or the repealed language may be shown in strike type. For example:

In Colorado Revised Statutes, repeal 1-40-101.

Or:

In Colorado Revised Statutes, repeal 1-40-101 as follows:

1-40-101. Legislative declaration. It is not the intention of this article to limit or abridge in any manner the powers reserved to the people in the initiative and referendum, but rather to properly safeguard, protect, and preserve inviolate for them these modern instrumentalities of democratic government.

#### 3. Conforming amendments

If a proposed initiative amends or repeals an existing constitutional or statutory provision, it may be necessary to make conforming amendments to other provisions that refer to or are affected by the provision being amended or repealed. Cross-references can be found by searching the online database of the state constitution and Colorado Revised Statutes:

http://www.michie.com/colorado

#### 4. Other clauses

It may be appropriate to include certain other provisions in a proposed initiative, including:

#### a. Effective date clause

A effective date clause specifies when the proposed measure will take effect. For example, "This section shall take effect January 1, 2009."

#### b. Applicability clause

An applicability clause indicates a time period or event to which the changes in the law will apply. Depending on the proposal, an appropriate applicability clause might specify that the changes enacted by the initiative apply to fiscal years or tax years beginning on and after the effective date, or to offenses committed, civil actions filed, or transactions entered into on and after the effective date.

#### c. Penalty clause

If a proposed measure requires or prohibits certain conduct, it may be appropriate to specify the penalty for noncompliance with the law. A proposed initiative that creates a new criminal offense should specify the class of felony, misdemeanor, or petty offense to which the offense belongs. For reference, the statute on the classification of offenses is section 18-1-104, C.R.S. The penalties for the various classes of felonies, misdemeanors, and petty offenses are specified in sections 18-1.3-401, 18-

1.3-501, and 18-1.3-503, C.R.S., respectively.

# d. Statement of intent

It may be desirable to include a statement in the text of a proposed initiative describing the general purpose and intent of the measure. Such statements can be helpful to courts when attempting to resolve any ambiguities in the meaning of the constitutional or statutory provisions.

# e. Definitions section

If a proposed initiative uses special terms or intends for certain words to have a specific meaning other than their common meaning, it may be useful to include a section defining those terms.

#### 5. Style of legislative drafting

The meaning of a proposed initiative will be clearer to readers if the text follows certain standard rules of style for legislative drafting. For an explanation of these rules, please see chapter 11 of the Colorado Legislative Drafting Manual, which may be found at the following link: <a href="http://www.state.co.us/gov\_dir/leg\_dir/olls/LDM/11.0 Grammar and Style.pdf">http://www.state.co.us/gov\_dir/leg\_dir/olls/LDM/11.0 Grammar and Style.pdf</a>

#### 6. Further information

For more information on the use of particular words in statutes and how courts interpret statutory provisions, please see article 4 of title 2, Colorado Revised Statutes.

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